

HAEMMERLE & HAEMMERLE, P.L.L.C.

Attorneys & Counselors at Law

Fritz X. Haemmerle
Jennifer L. K. Haemmerle

P. O. Box 1800
Hailey, ID 83333

400 South Main Street, Suite 102
Tel: (208) 578-0520
Fax: (208) 578-0564

April 8, 2003

RECEIVED
APR 10 2003
Department of Water Resources
Southern Region

Allen Merrit, Southern Region Manager
Idaho Department of Water Resources
1341 Fillmore St., Suite 200
Twin Falls, ID 83301

Re: Eccles Water Right Transfer- Right 37-00577BP

Dear Allen:

On behalf of the Hiawatha Canal Water Users Association of Lateral or Laterals ("Hiawatha Canal"), the purpose of this letter is to express our concern about the administration of water right 37-00577BP.

As you may recall, Hiawatha Canal expressed its concern about the transfer of water right 37-00577BP, owned by Eccles Flying Heart Ranch, L.L.C., when that water right was transferred out of the Hiawatha Canal. Our specific concern related to the conveyance loss portion of the right. Pursuant to our concern and the according to the policies adopted by the Idaho Department of Water Resources ("IDWR"), the transfer of right 37-00577BP was approved subject to leaving 1.4 cfs of the right in the Hiawatha Canal for conveyance loss. One of the conditions of the approved transfer, in pertinent part, was as follows: "A portion of Right 37-577BP, 1.4 cfs, shall continue to be diverted into the Hiawatha Canal to mitigate the removal of Rights . . . until such time as the canal ceases operation." I have enclosed a copy of the information relating to right 37-00577BP for your convenience.

During the past year, Hiawatha Canal believes that the 1.4 cfs portion of right 37-00577BP has not been diverted into the Hiawatha Canal as mandated under the transfer. On behalf of the Hiawatha Canal, I ask that IDWR intervene to insure that the Water Master for State Water District No. 37 does, in fact, fulfill his duty in turning the 1.4 cfs down the Hiawatha Canal as required.

SCANNED

DEC 21 2005

Allen Merrit
April 8, 2003
Page 2

Your cooperation and assistance in this matter would be greatly appreciated.
Please contact me if there is anything else you require. Thank you.

Sincerely,

HAEMMERLE & HAEMMERLE, P.L.L.C.

A handwritten signature in dark ink, appearing to read 'Fritz X. Haemmerle', with a stylized, cursive script.

Fritz X. Haemmerle

FXH: fxh
Encl.
cc: Dave Cropper



IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

RECEIVED
APR 10 2003
Department of Water Resources
Southern Region

04/08/2003

WATER RIGHT NO. 37-577BP

Owner Type	Name and Address
Current Owner	ECCLES FLYING HAT RANCH LLC PO BOX 3028 SALT LAKE CITY, UT 84110 (801)246-5329
Original Owner	W T RILEY

Priority Date: 03/24/1883

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/15	10/31	7 CFS	
Total Diversion			7 CFS	

Location of Point(s) of Diversion:

BIG WOOD RIVER	SESWNE	Sec. 16	Township 02N	Range 18E	BLAINE County
BIG WOOD RIVER	SENESE	Sec. 22	Township 02N	Range 18E	BLAINE County
BIG WOOD RIVER	NWSWNW	Sec. 20	Township 03N	Range 18E	BLAINE County

IRRIGATION Use:

Acre Limit: 523

Place(s) of use:

Place of Use Legal Description: IRRIGATION BLAINE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02N	18E	15		SWSE	3									
		22		NENE	7		NWNE	33		SENE	34			
				NESE	38									
		23		SWNW	18									
				NESW	12		NWSW	40		SWSW	40		SESW	34
				SWSE	9		SESE	6						
		25		NWNW	28		SWNW	39		SENE	5			
				NESW	23		NWSW	27		SWSW	5		SESW	14
		26		NENE	39		NWNE	36		SWNE	40		SENE	34
				NENW	40		NWNW	32		SENE	36			

Total Acres: 675

Conditions of Approval:

1.	X27	Rights 37-483D and 37-577BP when combined are limited to the irrigation of 523.0 acres within the place of use described above in a single irrigation season.
2.	X35	The total instantaneous diversion of water from all points of diversion under Rights 37-481D, 37-482J, 37-483D, 37-577BP, 37-917, 37-11975, 37-11976, 37-11977 and 37-11978 when combined shall not exceed 26.74 cfs, a total annual maximum diversion volume of 4172.0 af at the field headgate, for the irrigation of 596.0 total acres.
3.	R04	Use of water under this water right will be regulated by the watermaster of State Water District No. 37, Big Wood River.
4.	T18	Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
5.	R59	This right when combined with all other rights shall provide no more than 3.5 afa per acre when applied by sprinkler system and 7.0 afa per acre when applied by surface application at the field headgate for irrigation of the lands above.
6.	X57	Approval of Transfer 68526 does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
7.	T07	The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
8.	T08	Failure of the right holder to comply with the conditions of this transfer is cause for the

9.	T09	<p>Director to rescind approval of the transfer.</p> <p>Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.</p>
----	-----	---

Remarks:

1.	<p>Rights 37-481D, 37-482J, 37-483D, 37-577BP, 37-917, 37-11975, 37-11976, 37-11977 and 37-11978 when applied by sprinkler system shall not exceed a maximum diversion rate of 11.92 cfs and 2086.0 af at the field headgate, and when applied by surface application shall not exceed a maximum diversion rate of 23.84 cfs and 4172.0 af at the field headgate. Any portion of these rights in excess of the maximum applied rates of diversion and volumes at the field headgate shall be limited to use for conveyance losses and shall not be diverted from the river unless required for the delivery of the applied rate of water to the field headgate.</p>
2.	<p>Rights 37-481D, 37-482J, 37-483D, 37-577BP, 37-917, 37-11975, 37-11976, 37-11977 and 37-11978 when combined with supplemental ground water Rights 37-2713 and 37-7356 shall not exceed the maximum applied diversion rates and volumes described above, and the irrigation of 596.0 acres to be specifically identified by the right holder prior to each irrigation season.</p>
3.	<p>A portion of Right 37-577BP, 1.40 cfs, shall continue to be diverted into the Hiawatha Canal to mitigate the removal of Rights 37-481D, 37-482J, 37-483D, 37-577BP, 37-917, 37-11975, 37-11976, 37-11977 and 37-11978 diverted into Cove Canal and Kohler Ditch under Transfer 68526 until such time as the canal ceases operation. The Department retains jurisdiction in this matter for a period of five (5) years to modify the diverted amount should justification for a lesser amount be provided by the right holder within that period of time.</p>

Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 37

Generic Max Rate per Acre:

Generic Max Volume per Acre: 3.5

Combined Acres Limit: 596

Combined Volume Limit: 2086

Combined Rate Limit: 26.74

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close